JOURNAL OF THE HOUSE.

Thursday, November 3, 2005.

Met according to adjournment, at eleven o'clock A.M., with Mr. Petrolati of Ludlow in the Chair (having been appointed by the Speaker, under authority conferred by Rule 5, to perform the duties of the Chair).

Prayer was offered by the Reverend Robert F. Quinn, C.S.P., Chaplain of the House, as follows:

Prayer.

Gracious God, in Whom we place our hope and confidence, we depend upon Your assistance in our daily struggle to respond thoughtfully to our daily personal and legislative tasks and responsibilities. Your guidance and our own personal experience, knowledge and reasonable judgements help us to select the best and right choices and options as we take up the issues of the day. Teach us to think through carefully the suggestions and proposals of others as we discuss current, complex and emotional issues. Inspire us to be guided by sound principles, traditional values and ethical norms. By our conscientious and honorable decisions, may we continue to build up confidence and trust in each other, in our basic institutions and in the relevance of our constitutions, both state and federal.

Grant Your blessings to the Speaker, the members and employees of this House and their families. Amen.

Pledge of allegiance.

At the request of the Chair (Mr. Petrolati), the members, guests and employees joined with him in reciting the pledge of allegiance to the flag.

Silent Prayer.

Silent Prayer.

At the request of Representative Lepper of Attleboro, the members, guests and employees stood in a moment of silent prayer in memory of Walter Bischoff of Attleboro, who for the past fifteen years has been broadcasting and videotaping our formal House sessions. Mr. Bischoff passed away on Monday.

Statement Concerning Representative Kennedy of Brockton.

A statement of Mr. Rogers of Norwood concerning Mr. Kennedy of Brockton was spread upon the records of the House, as follows:

Statement concerning Representative Kennedy of Brockton.

MR. SPEAKER: I would like to call to the attention of the House the fact that one of our colleagues, Representative Kennedy of Brockton, will not be present in the House Chamber for today's sitting due to his hospitalization. Any roll calls that he may miss today will be due entirely to the reason stated.

Statement of Representative Reinstein of Revere.

A statement of Ms. Reinstein of Revere was spread upon the records of the House, as follows:

Statement of Representative Reinstein of Revere.

MR. SPEAKER: I would like to call to the attention of the House the fact that I will be unable to be present in the House Chamber for a remainder of today's session due to personal medical reasons.

If I could be present for the roll call vote on passing to be engrossed, the House Bill promoting health care in the Commonwealth, I would vote in the affirmative. Any roll calls that I may miss today is due entirely to the reason stated.

Guests of the House.

Frank McKenna and Stan Keyes.

During the session, the Speaker declared a brief recess and introduced the Honorable Frank McKenna, Canadian Ambassador to the United States of America. Mr. McKenna, who on March 8, 2005, became the twentieth Ambassador to the United States, was traveling with Stan Keyes, Canadian Consul General for New England. Ambassador McKenna then addressed the House briefly. Messrs. McKenna and Keyes were the guests of Representative Costello of Newburyport.

Resolutions.

The following resolutions (filed with the Clerk) were referred, under Rule 85, to the committee on Rules:

Fran Mitchell.

Resolutions (filed by Mr. Jones of North Reading) honoring Fran Mitchell on his achievements to the town of North Reading;

Cantor Donn Rosensweig.

Resolutions (filed by Representative Finegold of Andover and L'Italien of Andover) congratulating Cantor Donn Rosensweig;

Hodges Square, Stoughton.

Resolutions (filed by Messrs. Galvin of Canton and Kafka of Stoughton) on the dedication of the William Albert Hodges Square in Stoughton;

Silva Square, Stoughton.

Resolutions (filed by Messrs. Galvin of Canton and Kafka of Stoughton) on the dedication of the Alfred V. Silva Square in Stoughton;

Suslowicz Square, Stoughton.

Resolutions (filed by Messrs. Galvin of Canton and Kafka of Stoughton) on the dedication of the John C. Suslowicz, Sr. Square in Stoughton;

Robert F. Vereecke.

Resolutions (filed by Mr. Honan of Boston) honoring Father Robert F. Vereecke; and

El Dia De Los Muertos celebration.

Resolutions (filed by Mr. Toomey of Cambridge) recognizing the participants of the Cambridge Multicultural Arts Center and the Consulate General of Mexico's Celebration of El Dia De Los Muertos;

Mrs. Parente of Milford, for the committee on Rules, reported, in each instance, that the resolutions ought to be adopted. Under suspension of the rules, in each instance, on motion of Mr. Petruccelli of Boston, the resolutions (reported by the committee on Bills in the Third Reading to be correctly drawn) were considered forthwith; and they were adopted.

Orders.

The following orders (filed this day by Mr. Rogers of Norwood) severally were referred, under Rule 85, to the committee on Rules:

First Bristol Representative District, time for election to fill vacancy.

Ordered, That the precept to be issued by the Speaker, under the provisions of Section 141 of Chapter 54 of the General Laws, appointing a time for the election to fill the vacancy existing in the office of Representative in the General Court from the First Bristol District shall designate, Tuesday, February 7, 2006 as the time ordered by the House of Representatives for said election.

Twenty-seventh Middlesex Representative District, time for election to fill vacancy.

Ordered, That the precept to be issued by the Speaker, under the provisions of Section 141 of Chapter 54 of the General Laws, appointing a time for the election to fill the vacancy existing in the office of Representative in the General Court from the Twenty-seventh Middlesex District shall designate, Tuesday, February 7, 2006 as the time ordered by the House of Representatives for said election.

Second Worcester Representative District, time for election to fill vacancy.

Ordered, That the precept to be issued by the Speaker, under the provisions of Section 141 of Chapter 54 of the General Laws, appointing a time for the election to fill the vacancy existing in the office of Representative in the General Court from the Second Worcester District shall designate, Tuesday, February 7, 2006 as the time ordered by the House of Representatives for said election.

Mr. Scaccia of Boston, for the committee on Rules, then reported, in each instance, that the order ought to be adopted. Under suspension of Rule 42, in each instance, on motion of Mrs. Harkins of Needham, the orders severally were considered forthwith; and they were adopted.

Petitions.

Brewster Island, property.

Mr. Dempsey of Haverhill presented a petition (subject to Joint Rule 12) of Brian S. Dempsey and others relative to authorizing the Division of Capital Asset Management and Maintenance to convey certain land known as Outer Brewster Island; and the same was referred, under Rule 24, to the committee on Rules.

Mr. Scaccia of Boston, for the committee on Rules and the committees on Rules of the two branches, acting concurrently, then reported recommending that Joint Rule 12 be suspended. Under suspension of the rules, on motion of Mr. Petruccelli of Boston, the report was considered forthwith. Joint Rule 12 was suspended; and the petition (accompanied by bill) was referred to the committee on Bonding, Capital Expenditures and State Assets. Sent to the Senate for concurrence.

Petitions severally were presented and referred as follows:

Kindergarten, full day.

By Mr. Cabral of New Bedford, petition (subject to Joint Rule 12) of Antonio F. D. Cabral and others that the Board of Education be directed to establish full-day programs for children attending kindergarten classes.

Non-profits, retirement options.

By Mr. Coughlin of Dedham, petition (subject to Joint Rule 12) of Robert K. Coughlin and others that the Treasurer and Receiver-General of the Commonwealth be authorized to establish retirement plans for employees of non-profit organizations.

Michael McLaughlin, sick leave.

By Mr. Donato of Medford, petition (subject to Joint Rule 12) of Paul J. Donato for legislation to establish a sick leave bank for Michael McLaughlin, an employee of the Somerville Division of the Trial Court of the Commonwealth.

Public retirees, life insurance.

By Mr. Fresolo of Worcester, petition (subject to Joint Rule 12) of Robert F. Fennell for legislation to regulate the termination of life insurance of certain retired public employees.

Traffic stops, data collection.

By Mr. Fresolo of Worcester, petition (subject to Joint Rule 12) of John P. Fresolo and others for legislation to regulate the collection of data by police officers issuing citations for violations by operators of motor vehicles.

Tewksbury, Robert C. Conley.

By Mr. Miceli of Wilmington, petition (subject to Joint Rule 12) of James R. Miceli and Susan C. Tucker for legislation to authorize the certification of Robert C. Conley as a state police officer, notwithstanding the maximum age requirements.

Telephone equipment, leasing.

By Ms. Peisch of Wellesley, petition (subject to Joint Rule 12) of Alice Hanlon Peisch for legislation to further regulate the leasing of telephone equipment.

Housing, low and moderate.

By Mrs. Poirier of North Attleborough, petition (subject to Joint Rule 12) of Elizabeth A. Poirier and others that manufactured homes be included in the assessment of affordable housing in the cities and towns of the Commonwealth.

School bus drivers, inspections.

By Mr. Stanley of Waltham (by request), petition (subject to Joint Rule 12) of Louanne Fucci relative to implementing a post-trip inspection procedure for operators of school buses.

School buses, safety.

By the same member (by request), petition (subject to Joint Rule 12) of Louanne Fucci for legislation to regulate the movement of motor vehicles after students have allighted from or boarded school buses.

School bus, operations.

By the same member (by request), petition (subject to Joint Rule 12) of Louanne Fucci for legislation to permit the discharging or boarding of students at certain intersections.

Ann Low, retirement.

By Mr. Torrisi of North Andover, petition (subject to Joint Rule 12) of David M. Torrisi and others that the Teachers' Retirement Board be directed to grant certain creditable service to Ann Low, as an elected member of the school committee of the town of North Andover.

Fire fighters, license plates.

By Mr. Travis of Rehoboth, petition (subject to Joint Rule 12) of Philip Travis and Thomas Rose III for legislation to authorize the Registrar of Motor Vehicles to issue distinctive license plates to fire fighters.

Severally, under Rule 24, to the committee on Rules.

Petitions were referred, in concurrence, as follows:

Bellingham, insurance.

Petition (accompanied by bill, Senate, No. 2260) of Richard T. Moore and Jennifer M. Callahan (by vote of the town) for legislation to authorize the town of Bellingham to establish a group insurance liability fund. To the committee on Public Service.

Milton, alcohol license.

Petition (accompanied by bill, Senate, No. 2261) of Brian A. Joyce, Linda Dorcena Forry and Walter F. Timilty (by vote of the town) for legislation to authorize the town of Milton to grant an additional license for the sale of all alcoholic beverages to be drunk on the premises. To the committee on Consumer Protection and Professional Licensure.

Papers from the Senate.

Petitions were referred, in concurrence, under suspension of Joint Rule 12, as follows:

Blues artist, designate.

Petition (accompanied by bill, Senate, No. 2262) of Stephen J. Buoniconti for legislation to designate the official blues artist of the Commonwealth. To the committee on Tourism, Arts and Cultural Development.

Essex regional retirement.

Petition (accompanied by bill, Senate, No. 2263) of Thomas M. McGee, Anthony J. Verga, Richard R. Tisei, Douglas W. Petersen and other members of the General Court for legislation relative to the Essex Regional Retirement System. To the committee on Public Service.

Reports of Committees.

By Mr. Scaccia of Boston, for the committee on Rules and the committees on Rules of the two branches, acting concurrently, that Joint Rule 12 be suspended on the following petitions:

Michael McLaughlin, sick leave.

Petition (accompanied by bill) of Paul J. Donato for legislation to establish a sick leave bank for Michael McLaughlin, an employee of the Somerville Division of the Trial Court of the Commonwealth. To the committee on the Judiciary.

Theft and fraud, losses.

Petition (accompanied by bill) of Douglas W. Petersen and others for legislation to provide an income tax deduction for losses caused by theft or fraud. To the committee on Revenue.

Under suspension of the rules, on motion of Mr. Donato of Medford, the reports were considered forthwith. Joint Rule 12 then was suspended, in each instance. Severally sent to the Senate for concurrence.

Noise pollution study.

By Mr. Smizik of Brookline, for the committee on Environment, Natural Resources and Agriculture, asking to be discharged from further consideration of the petition (accompanied by bill, House, No. 3896) of Kathleen M. Teahan and Alice K. Wolf for an investigation by a special commission (including members of the General Court) relative to noise pollution,— and recommending that the same be referred to the committee on Public Health. Under Rule 42, the report was considered forthwith; and it was accepted. Sent to the Senate for concurrence.

Taxi cabs, safety. Financing.

By Mr. Donato of Medford, for the committee on Steering, Policy and Scheduling, asking to be discharged from further consideration of the Bill relative to the promotion of health and safety in taxi cabs (House, No. 1930),— and recommending that the same be referred to the committee on Ways and Means. Under Rule 42, the report was considered forthwith; and it was accepted.

Fire sprinkler systems.

By Ms. Rivera of Springfield, for the committee on Public Safety and Homeland Security, on a petition, a Bill requiring the installation of fire sprinkler systems in nursing homes, preschools and day care centers (House, No. 1911). Read; and referred, under Joint Rule 1E, to the committee on Health Care Financing.

Gang violence, prevention.

By Ms. Rivera of Springfield, for the committee on Public Safety and Homeland Security, on a petition, a Bill to prevent youth and gang violence (House, No. 2879). Read; and referred, under Joint Rule 29, to the committees on Rules of the two branches, acting concurrently.

Wine shipments.

By Mr. Pedone of Worcester, for the committee on Consumer Protection and Professional Licensure, on Senate, Nos. 163 and 209

and House, Nos. 3360, 3386, 3399, 3401, 3407 and 3414, a Bill relative to wine direct shipments (House, No. 4477).

Bicyclists.

By Ms. Rivera of Springfield, for the committee on Public Safety and Homeland Security, on a petition, a Bill establishing the bicyclists' bill of rights and responsibilities (House, No. 1411).

Playgrounds.

By the same member, for the same committee, on Senate, No. 1366 and House, No. 1416, a Bill improving playgrounds (House, No. 1416).

Fluids, storage.

By the same member, for the same committee, on a petition, a Bill relative to certain tanks used for the storage of fluids (House, No. 1863).

Elevators.

By the same member, for the same committee, on a petition, a Bill relative to elevator license examinations (House, No. 1865).

Dormitories, sprinklers.

By the same member, for the same committee, on a petition, a Bill relative to automatic sprinklers (House, No. 1902).

Smoke detectors.

By the same member, for the same committee, on a petition, a Bill relative to smoke detectors (House, No. 1903).

Walkways, electric wiring.

By the same member, for the same committee, on a petition, a Bill safeguarding against undetected live electrical wiring on metropolitan area walkways and street (House, No. 1905).

Cigarette fires.

By the same member, for the same committee, on a petition, a Bill to reduce the loss of life due to fires caused by cigarettes (House, No. 1914).

Sprinkler systems.

By the same member, for the same committee, on a petition, a Bill further regulating the installation of automatic sprinkler systems (House, No. 1915).

Municipal police.

By the same member, for the same committee, on House, Nos. 1873 and 1917, a Bill enhancing municipal police cooperation (House, No. 1917).

Fires and explosions.

By the same member, for the same committee, a Bill relative to certain fire or explosion investigations (House, No. 1921).

Fire/police stations.

By the same member, for the same committee, on Senate, No. 1376 and House, Nos. 1924, 1956 and 3613, a Bill to build and renovate fire and police stations in the Commonwealth of Massachusetts (House, No. 1924).

Firearms.

By the same member, for the same committee, on a petition, a Bill relative to a report of firearms-related statistics (House, No. 1938).

Sport complexes.

By the same member, for the same committee, on a petition, a Bill further regulating exits in sports complexes (House, No. 1958).

Fire hydrants.

By the same member, for the same committee, on a petition, a Bill providing for the viability of fire hydrants in winter (House, No. 2020).

Educational institutions.

By the same member, for the same committee, on a petition, a Bill to provide for the public inspection of records made or received by special state police officers at educational institutions and hospitals (House, No. 3449).

Severally read; and referred, under Rule 33, to the committee on Ways and Means.

Motorized scooters, helmets.

By Ms. Rivera of Springfield, for the committee on Public Safety and Homeland Security, on a petition, a Bill to require the use of safety helmets while using non-motorized scooters by children under the age of 18 (House, No. 1412).

Lodging houses.

By the same member, for the same committee, on a petition, a Bill relative to cooking facilities in lodging houses (House, No. 1870).

Firearms licenses.

By the same member, for the same committee, on a petition, a Bill relative to issuing a license to carry firearms to law enforcement officers (House, No. 1875).

Shopping carts.

By the same member, for the same committee, on a petition, a Bill prohibiting children in shopping carts (House, No. 1877).

Firearms.

By the same member, for the same committee, on a petition, a Bill clarifying the restrictions on gun licensing (House, No. 1879).

Civil rights.

By the same member, for the same committee, on a petition, Resolutions affirming the civil rights and liberties of the people of Massachusetts (House, No. 1881).

Firearms.

By the same member, for the same committee, on House, Nos. 1895 and 1949, a Bill relative to license fees (House, No. 1895).

Smoke detectors.

By the same member, for the same committee, on a petition, a Bill relative to smoke detector responsibility clarification (House, No. 1909).

BB guns.

By the same member, for the same committee, on a petition, a Bill banning the sale or possession of automatic BB guns (House, No. 1910).

Bullet-resistant vests.

By the same member, for the same committee, on a petition, a Bill relative to bullet-proof vests (House, No. 1920).

Fire fighters.

By the same member, for the same committee, on a petition, a Bill pertaining to fire fighter safety (House, No. 1929).

Fire departments.

By the same member, for the same committee, on a petition, a Bill to provide for the assessment of fees by fire departments that provide confined space rescue services (House, No. 1944).

Firearms.

By the same member, for the same committee, on House, Nos. 1900 and 2125, a Bill relative to controlling firearms in the Commonwealth (House, No. 2125).

Severally read; and referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Engrossed Bill.

Bill enacted.

The engrossed Bill removing the residency requirement for the town counsel of the town of Arlington (see House, No. 35, amended) (which originated in the House), having been certified by the Clerk to be rightly and truly prepared for final passage, was passed to be enacted; and it was signed by the acting Speaker and sent to the Senate.

Motion to Reconsider.

Tax provisions, update.

Mr. Binienda of Worcester moved that the vote be reconsidered by which the House, at the preceding sitting, concurred with the Senate in its amendments to the House Bill relative to the tax laws of the Commonwealth (House, No. 4169).

Pending the question on the motion to reconsider, further consideration thereof was postponed, on further motion of the same member, until Monday, November 7.

Orders of the Day.

Second reading bill.

The House Bill relative to HIV and Hepatitis C prevention (House, No. 4176) was read a second time; and it was ordered to a third reading.

Milk control law.

The House Bill relative to milk control law transactions (House, No. 3711) was read a second time.

Pending the question on ordering the bill to a third reading, it was referred, on motion of Mr. Torrisi of North Andover, to the committee on Environment, Natural Resources and Agriculture. Sent to the Senate for concurrence.

Recesses.

Recesses.

At thirteen minutes after eleven o'clock A.M., on motion of Mr. Jones of North Reading (Mr. Donator of Medford being in the Chair), the House recessed until the hour of twelve o'clock noon; and at that time the House was called to order with Mr. Petrolati in the Chair.

The House thereupon took a further recess, on motion of Mr. Flynn of Bridgewater, until one o'clock P.M.; and at that time the House was called to order with Mr. Petrolati in the Chair.

The House thereupon took a further recess, on motion of Mr. Peterson of Grafton, until half past one o'clock; and at twenty-one minutes before two o'clock the House was called to order with Mr. Petrolati in the Chair.

The House thereupon took a further recess, on motion of Mr. Kaufman of Lexington, until two o'clock P.M.; and at nine minutes after two o'clock the House was called to order with Mr. Petrolati in the Chair.

Engrossed Bill.

Volunteer firefighters, death benefits.

The engrossed Bill providing death benefits for survivors of volunteer firefighters and other volunteer public safety personnel (see House, No. 4369, amended) (which originated in the House), having been certified by the Clerk to be rightly and truly prepared for final passage, was put upon its final passage.

Bill enacted, yea and nay No. 258.

The sense of the House was taken by yeas and nays, at the request of Mr. Jones of North Reading; and on the roll call 155 members voted in the affirmative and 0 in the negative.

[See Yea and Nay No. 258 in Supplement.]

Therefore the bill was passed to be enacted; and it was signed by the acting Speaker and sent to the Senate.

Engrossed Bills — Land Takings.

Tewksbury, conservation land sale.

The engrossed Bill authorizing the sale of certain conservation land in the town of Tewksbury (see Senate, No. 1210, amended) (which originated in the Senate), having been certified by the Clerk to be rightly and truly prepared for final passage, was put upon its final passage.

Bill enacted (land taking), yea and nay No. 259.

On the question on passing the bill to be enacted, the sense of the House was taken by yeas and nays (this being a bill providing for the taking of land or other easements used for conservation purposes, etc., as defined by Article XCVII of the Amendments to the Constitution); and on the roll call 155 members voted in the affirmative and 0 in the negative.

[See Yea and Nay No. 259 in Supplement.]

Therefore the bill was passed to be enacted; and it was signed by the acting Speaker and sent to the Senate.

Dedham, land transfer.

The engrossed Bill authorizing the town of Dedham to transfer land for senior center purposes (see House, No. 4102, amended) (which originated in the House), having been certified by the Clerk to be rightly and truly prepared for final passage, was put upon its final passage.

Bill enacted (land taking), yea and nay No. 260.

On the question on passing the bill to be enacted, the sense of the House was taken by yeas and nays (this being a bill providing for the taking of land or other easements used for conservation purposes, etc., as defined by Article XCVII of the Amendments to the Constitution); and on the roll call 155 members voted in the affirmative and 0 in the negative.

[See Yea and Nay No. 260 in Supplement.]

Therefore the bill was passed to be enacted; and it was signed by the acting Speaker and sent to the Senate.

Resolutions.

Rosa Parks.

Resolutions (filed with the Clerk by Mr. Rushing of Boston and other members of the House) in rememberance of Rosa Parks (House, No. 4478), were referred, under Rule 85, to the committee on Rules.

Mr. Scaccia of Boston, for the committee on Rules, then reported that the resolutions ought to be adopted. Under suspension of the rules, on motion of Mr. Rushing (the Speaker being in the Chair), the resolutions (reported by the committee on Bills in the Third Reading to be correctly drawn) were considered forthwith.

Silent Prayer.

After remarks on the question on adoption of the resolutions, at the request of Representative Rushing, the members, guests and employees stood in a moment of silent prayer in memory of Rosa Parks.

Resolutions adopted, yea and nay No. 261.

On the question on adoption of the resolutions, the sense of the House was taken by yeas and nays, at the request of Mr. Jones of North Reading; and on the roll call 155 members voted in the affirmative and 0 in the negative.

[See Yea and Nay No. 261 in Supplement.]

Therefore the resolutions (House, No. 4478) were adopted.

Subsequently the resolutions were spread upon the records of the House, at the request of Mr. Rushing of Boston, as follows:

"RESOLUTIONS IN REMEMBRANCE OF ROSA PARKS.

Whereas, Rosa Parks has been called 'the Mother of the Civil Rights Movement' for her courageous refusal on December 1, 1955

Rosa Parks.

to relinquish her seat on a Montgomery, Alabama city bus, which led to her arrest; and

Whereas, Rosa Parks's trial on December 5, 1955 marked the beginning of the 381-day Montgomery Bus Boycott, led by Dr. Martin Luther King Jr., against segregation laws that told African-Americans where to live, sit, drink, eat, shop, and learn; and

Whereas, Rosa Parks's quiet defiance sparked the struggle for civil rights that changed a way of life, moving America closer to fulfilling the founding principles promised to all in the Declaration of Independence and the Constitution, thus altering the course of American history; and

Whereas, Rosa Parks a seamstress who served as secretary for the Montgomery chapter of the NAACP has inspired hope in individual action, the bedrock of the American Dream, that all of us have the propensity to be as brave, as human as she in the face of enormous obstacles; and

Whereas, of Rosa Parks's action, Dr. Martin Luther King Jr. in *Stride Toward Freedom* wrote:— Actually no one can understand the action of Mrs. Parks unless he realizes that eventually the cup of endurance runs over, and the human personality cries out, 'I can take it no longer.'; and

Whereas, Rosa Parks's case led the Supreme Court on November 13, 1956 to desegregate public transportation in Montgomery in Browder v. Gayle, thus ending the Montgomery Bus Boycott and ending racial discrimination in intrastate public transportation; and

Whereas, Rosa Parks and Raymond Parks, her husband, as a result of her heroic action lost their jobs, received death threats and eventually moved to Detroit were Rosa Parks continued her patriotic service by working on the staff of United States Representative John Conyers Jr.; and

Whereas, of Rosa Parks, United States Representative John Conyers Jr. of Michigan said, 'There are very few people who can say their actions and conduct changed the face of the nation, and Rosa Parks is one of those individuals'; and

Whereas, Rosa Parks has received honors and awards to numerous to mention, including the Presidential Medal of Freedom from President Clinton, the Congressional Gold Medal, the Rosa Parks Peace Prize; and

Whereas, Rosa Parks and her husband Raymond Parks co-founded the Rosa and Raymond Parks Institute for Self Development in Detroit, which operates the 'Pathways to Freedom' bus tours introducing young people to the importance of civil rights; and

Whereas, the death of Rosa Parks on October 24, 2005, at the age of 92, in her home in Detroit has served to remind us all of the immense sacrifice she and so many others made on behalf of human freedom in the United States; therefore be it

Resolved, that the House of Representatives memorializes Rosa Parks, for her 'quiet strength', her leadership, and for her thoughtful and courageous actions nearly fifty years ago and throughout her lifetime that moved the Nation closer to 'rise up and live out the true meaning of its creed.'; and be it further

Resolved, That a copy of these Resolutions be forwarded by the Clerk of the House of Representatives to the family of the late Rosa Parks.".

Orders of the Day.

Health care, access.

The House Bill promoting access to health care (House, No. 4463) was read a second time; and it was ordered to a third reading.

Recesses.

At twenty-five minutes after three o'clock P.M., on motion of Mr. Petrolati of Ludlow (the Speaker being in the Chair), the House recessed until the hour of four o'clock P.M.; and at that time the House was called to order with Mr. Petrolati in the Chair.

The House thereupon took a further recess, on motion of Mr. Sánchez of Boston, until half past four o'clock; and at that time the House was called to order with Mrs. Walrath of Stow in the Chair.

Quorum.

Mr. Peterson of Grafton thereupon asked for a count of the House to ascertain if a quorum was present. The Chair (Mrs. Walrath), having determined that a quorum was not in attendance, then directed the Sergeant-at-Arms to secure the presence of a quorum.

Quorum, yea and nay No. 262.

Subsequently a roll call was taken for the purpose of ascertaining the presence of a quorum; and on the roll call (Mr. Petrolati of Ludlow being in the Chair) 150 members were recorded as being in attendance.

[See Yea and Nay No. 262 in Supplement.]

Therefore a quorum was present.

Under suspension of the rules, on motion of Mrs. Walrath of Stow, the bill (having been reported by the committee on Bills in the Third Reading to be correctly drawn) was read a third time.

After debate on the question on passing the bill to be engrossed, Mr. DeLeo of Winthrop and other members of the House moved that the bill be amended by striking out sections 30, 31 and 32 (as printed) and inserting in place thereof the following 3 sections:

"SECTION 30. Chapter 151A of the General Laws is hereby amended by inserting after section 14M the following new section:—

Section 14N. (a) Beginning on July 1, 2006, each employer, except those employers who employ 10 or fewer employees, subject to the provisions of 14, 14A, or 14C, shall pay, in the same manner and at the same times as the director prescribes for the contribution required by section fourteen, a commonwealth care contribution for the purpose of expanding health insurance coverage for low-wage workers in the commonwealth. For employers with more than 10 and fewer than 99 employees, the contribution shall be computed by multiplying the wages paid its employees by the commonwealth care contribution rate of 3%. For employers with more than 100 employees, the contribution shall be computed by multiplying the wages paid its employees by the commonwealth care rate of 5%. The receipts from these contributions shall be paid to the director and shall be credited to the commonwealth care fund established pursuant to section 2000 of chapter 29.

(b) For the purposes of this section, 'wages' shall not include that part of renumeration which, after renumeration equal to the commonwealth care contribution wage base with respect to employment with such employer has been paid to an individual during the calendar year, is paid to such individual during the year. For the purposes of this section, the commonwealth care contribution wage base shall be equal to the maximum wage base as determined by 42 USC 430 for each year beginning in the year 2006, provided

Health care, access.

however that the commonwealth care contribution wage base of employees who certify that they have obtained health insurance from a separate source shall be zero.

(c) Except where inconsistent with the provisions of this section, the terms and conditions of this chapter that apply to the payment of and the collection of contributions shall apply to the same extent to the payment of and the collection of the commonwealth care contributions required by this section; provided, however, that in order to distribute the costs of funding health care more equitably said contributions shall be reduced by an amount equal to the employer's health care expenditures, provided that said contribution shall not be less than zero. For the purpose of this section, health care expenditures shall mean any amount paid by an employer to provide health care to its employees or their families or reimburse its employees or their families for health care, including but not limited to amounts paid or reimbursed for health insurance premiums where the underlying policy provides or has provided coverage to employees of such employer or their families. Such expenditures include but are not limited to payment or reimbursement for medical care, prescription drugs, vision care, medical savings accounts, and any other costs to provide health care to an employer's employees or their families.

(d) The director, in consultation and cooperation with the commissioner of revenue, shall promulgate regulations to enforce the provisions of this section. The regulations shall include reasonable exemptions, including exemptions for substantial hardship, penalties for late payment and failure to pay, reporting forms and procedures, and other matters as the director may determine.

(e) The provisions of this section shall be deemed severable, and if any provision is adjudged invalid, such judgment shall not affect the valid parts thereof.

SECTION 31. Chapter 151A of the General Laws is hereby amended by inserting after section 14M the following new section:—

Section 14N. (a) Beginning on July 1, 2007, each employer, except those employers who employ 10 or fewer employees, subject to the provisions of 14, 14A, or 14C, shall pay, in the same manner and at the same times as the director prescribes for the contribution required by section fourteen, a commonwealth care contribution for the purpose of expanding health insurance coverage for low-wage workers in the commonwealth. For employers with more than 10 and fewer than 99 employees, the contribution shall be computed by multiplying the wages paid its employees by the commonwealth care contribution rate of 4%. For employers with more than 100 employees, the contribution shall be computed by multiplying the wages paid its employees by the commonwealth care rate of 6%. The receipts from these contributions shall be paid to the director and shall be credited to the commonwealth care fund established pursuant to section 2000 of chapter 29.

(b) For the purposes of this section, 'wages' shall not include that part of renumeration which, after renumeration equal to the commonwealth care contribution wage base with respect to employment with such employer has been paid to an individual during the calendar year, is paid to such individual during the year. For the purposes of this section, the commonwealth care contribution wage base shall be equal to the maximum wage base as determined by 42 USC 430 for each year beginning in the year 2006, provided however that the commonwealth care contribution wage base of employees who certify that they have obtained health insurance from a separate source shall be zero.

(c) Except where inconsistent with the provisions of this section, the terms and conditions of this chapter that apply to the payment of and the collection of contributions shall apply to the same extent to the payment of and the collection of the commonwealth care contributions required by this section; provided, however, that in order to distribute the costs of funding health care more equitably said contributions shall be reduced by an amount equal to the employer's health care expenditures, provided that said contribution shall not be less than zero. For the purpose of this section, health care expenditures shall mean any amount paid by an employer to provide health care to its employees or their families or reimburse its employees or their families for health care, including but not limited to amounts paid or reimbursed for health insurance premiums where the underlying policy provides or has provided coverage to employees of such employer or their families. Such expenditures include but are not limited to payment or reimbursement for medical care, prescription drugs, vision care, medical savings accounts, and any other costs to provide health care to an employer's employees or their families.

(d) The director, in consultation and cooperation with the commissioner of revenue, shall promulgate regulations to enforce the provisions of this section. The regulations shall include reasonable exemptions, including exemptions for substantial hardship, penalties for late payment and failure to pay, reporting forms and procedures, and other matters as the director may determine.

(e) The provisions of this section shall be deemed severable, and if any provision is adjudged invalid, such judgment shall not affect the valid parts thereof.

SECTION 32. Chapter 151A of the General Laws is hereby amended by inserting after section 14M the following new section:—

Section 14N. (a) Beginning on July 1, 2007, each employer, except those employers who employ 10 or fewer employees, subject to the provisions of 14, 14A, or 14C, shall pay, in the same manner and at the same times as the director prescribes for the contribution required by section fourteen, a commonwealth care contribution for the purpose of expanding health insurance coverage for low-wage workers in the commonwealth. For employers with more than 10 and fewer than 99 employees, the contribution shall be computed by multiplying the wages paid its employees by the commonwealth care contribution rate of 5%. For employers with more than 100 employees, the contribution shall be computed by multiplying the wages paid its employees by the commonwealth care rate of 7%. The receipts from these contributions shall be paid to the director and shall be credited to the commonwealth care fund established pursuant to section 2000 of chapter 29.

(b) For the purposes of this section, 'wages' shall not include that part of renumeration which, after renumeration equal to the common-

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wealth care contribution wage base with respect to employment with such employer has been paid to an individual during the calendar year, is paid to such individual during the year. For the purposes of this section, the commonwealth care contribution wage base shall be equal to the maximum wage base as determined by 42 USC 430 for each year beginning in the year 2006, provided however that the commonwealth care contribution wage base of employees who certify that they have obtained health insurance from a separate source shall be zero.

(c) Except where inconsistent with the provisions of this section, the terms and conditions of this chapter that apply to the payment of and the collection of contributions shall apply to the same extent to the payment of and the collection of the commonwealth care contributions required by this section; provided, however, that in order to distribute the costs of funding health care more equitably said contributions shall be reduced by an amount equal to the employer's health care expenditures, provided that said contribution shall not be less than zero. For the purpose of this section, health care expenditures shall mean any amount paid by an employer to provide health care to its employees or their families or reimburse its employees or their families for health care, including but not limited to amounts paid or reimbursed for health insurance premiums where the underlying policy provides or has provided coverage to employees of such employer or their families. Such expenditures include but are not limited to payment or reimbursement for medical care, prescription drugs, vision care, medical savings accounts, and any other costs to provide health care to an employer's employees or their families.

(d) The director, in consultation and cooperation with the commissioner of revenue, shall promulgate regulations to enforce the provisions of this section. The regulations shall include reasonable exemptions, including exemptions for substantial hardship, penalties for late payment and failure to pay, reporting forms and procedures, and other matters as the director may determine.

(e) The provisions of this section shall be deemed severable, and if any provision is adjudged invalid, such judgment shall not affect the valid parts thereof.".

Pending the question on adoption of the amendment, Representatives DeLeo of Winthrop and Walrath of Stow move that the amendment be amended by adding at the end thereof the following: "; and by adding at the end thereof the following section:—

SECTION 107. Notwithstanding any general or special law to the contrary, during fiscal year 2007, the comptroller shall transfer 50 per cent of the earnings generated in fiscal year 2007 from the Health Care Security Trust, as certified by the comptroller pursuant to paragraph (f) of section 3 of chapter 29 of the General Laws, to the Commonwealth Care Fund.".

The further amendment was adopted.

Mr. Jones of North Reading and other members of the House then moved that the pending amendment, as amended, be further amended by striking out the text of said amendment and inserting in place thereof the following: "by striking out sections 30, 31, 32 and 90; in section 102, in line 1, by striking out the figures ", 30"; in section 103, in line 1, by striking out the following: "91, and 96" and inserting in place thereof the following: "and 91"; that the bill be further amended in section 103 by striking the words "91, and 96" and inserting in place thereof the following: "and 91"; in section 104, in line 1, by striking out the following: "and section 31"; and in section 105, in line 1, by striking out the following: "and 32".

Quorum.

After debate on the question on adoption of the further amendments, Mr. Jones asked for a count of the House to ascertain if a quorum was present. The Chair (Mr. Petrolati of Ludlow), having determined that a quorum was not in attendance, then directed the Sergeant-at-Arms to secure the presence of a quorum.

Quorum, yea and nay No. 263.

Subsequently a roll call was taken for the purpose of ascertaining the presence of a quorum; and on the roll call 153 members were recorded as being in attendance.

[See Yea and Nay No. 263 in Supplement.]

Therefore a quorum was present.

Motion to recess negatived.

After further debate on the question on adoption of the further amendments, at a quarter after six o'clock P.M. (Mr. Petrolati of Ludlow being in the Chair), Mr. Jones of North Reading moved that the House recess until a quarter before seven o'clock; and the motion to recess was negatived.

Quorum.

Mr. Jones of North Reading thereupon asked for a count of the House to ascertain if a quorum was present. The Chair (Mr. Petrolati of Ludlow), having determined that a quorum was not in attendance, then directed the Sergeant-at-Arms to secure the presence of a quorum.

Quorum, yea and nay No. 264.

Subsequently a roll call was taken for the purpose of ascertaining the presence of a quorum; and on the roll call 151 members were recorded as being in attendance.

[See Yea and Nay No. 264 in Supplement.]

Therefore a quorum was present.

Recess.

At twenty-five minutes after six o'clock, on motion of Mr. Peterson of Grafton (Mr. Petrolati of Ludlow being in the Chair), the House recessed until a quarter before seven o'clock; and at seven o'clock the House was called to order with Mr. Petrolati in the Chair.

Further amendments rejected, yea and nay No. 265.

After further debate on the question on adoption of the further amendments, the sense of the House was taken by yeas and nays, at the request of Mr. Peterson of Grafton; and on the roll call 24 members voted in the affirmative and 125 in the negative.

[See Yea and Nay No. 265 in Supplement.]

Therefore the further amendments were rejected.

Miss Garry of Dracut then moved that the amendment, as amended, be further amended in proposed section 30, in the first sentence, and also in proposed section 31, in the first sentence, by inserting after the word "employer", in each instance, the words ", from a community not contiguous with the New Hampshire state border.

The further amendments were rejected.

The same member then moved that the amendment, as amended, be further amended by inserting at the beginning thereof the following: "in section 29 by inserting after line 10 the following paragraph:—

'Community with sufficient economic development', a community with no less than 20% of its tax base deemed commercial and/or

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industrial."; in proposed section 30, in the first sentence, and also in proposed section 31, in the first sentence, by inserting after the word "employer", in each instance, the words ", from a community with sufficient economic development,".

The further amendments were rejected.

Mr. Rodrigues of Westport then moved that the amendment, as amended, be further amended in proposed section 30 by striking out the following: ", except those employers who employ 10 or fewer employees," and by inserting after the words "low-wage workers in the commonwealth." the following sentence: "For employers with 10 or fewer employees the contribution shall be computed by multiplying the wages paid its employees by the commonwealth care contribution rate of 1%."; in proposed section 31 by striking out the following: ", except those employers who employ 10 or fewer employees," and by inserting after the words "low-wage workers in the commonwealth." the following sentence: "For employers with 10 or fewer employees the contribution shall be computed by multiplying the wages paid its employees by the commonwealth care contribution rate of 2%."; and in proposed section 32 by striking out the following: ", except those employers who employ 10 or fewer employees," and by inserting after the words "low-wage workers in the commonwealth." the following sentence: "For employers with 10 or fewer employees the contribution shall be computed by multiplying the wages paid its employees by the commonwealth care contribution rate of 3%.".

Further amendments rejected, yea and nay No. 266.

After debate on the question on adoption of the further amendments, the sense of the House was taken by yeas and nays, at the request of the same member; and on the roll call 4 members voted in the affirmative and 148 in the negative.

[See Yea and Nay No. 266 in Supplement.]

[Mr. Correia of Fall River answered "Present" in response to his name.]

Therefore the further amendments were rejected.

Mr. deMacedo of Plymouth and other members of the House then moved that the amendment, as amended, be further amended in proposed sections 30, 31 and 32, by striking out the words "commonwealth care contribution", each time they appear, and inserting in place thereof the words "jobs tax".

Further amendments rejected, yea and nay No. 267.

After debate on the question on adoption of the further amendments, the sense of the House was taken by yeas and nays, at the request of the same member; and on the roll call 21 members voted in the affirmative and 132 in the negative.

[See Yea and Nay No. 267 in Supplement.]

Therefore the further amendments were rejected.

Mr. Hynes of Marshfield then moved that the amendment, as amended, be further amended by striking out the text of said amendment and inserting in place thereof the following: "by striking out section 28 and inserting in place thereof the following section:—

SECTION 28. Notwithstanding any general or specific law to the contrary there is hereby established the Promoting Access to Health Care Trust Fund (PATH) to be administered by the division of health care finance and policy.

In fiscal year 2007 and thereafter the surcharge on payments required by section 18A of 118G shall be deposited into said Health Care Trust Fund. In fiscal year 2008 and thereafter, 1/10th of 1% (or 1 basis point) of the state income tax shall be deposited in said Health Care Trust Fund. In fiscal year 2007, $150,000,000 in unanticipated capital gains taxes, pursuant to the one time collection of capital gain taxes between January 1, 2002 and April 30, 2002, shall be deposited in said Health Care Trust Fund. Said deposits shall be made available for the purpose of subsidizing health insurance coverage for low income workers and for providing funds to the safety net trust fund established in section 22 above."; and by striking out sections 30, 31 and 32.

After debate the further amendment was rejected.

Recess.

At twenty-two minutes after eight o'clock P.M., on motion of Mr. Koutoujian of Waltham (Mr. Petrolati of Ludlow being in the Chair), the House recessed until a quarter before nine o'clock P.M.; and at four minutes before nine o'clock the House was called to order with Mr. Petrolati in the Chair.

Suspension of Rule 1A.

The Chair (Mr. Petrolati of Ludlow) then interrupted the pending business and placed before the House the question on suspension of Rule 1A in order that the House might continue to meet beyond the hour of nine o'clock P.M.

Rule 1A suspended, yea and nay No. 268.

On the question on suspension of Rule 1A, the sense of the House was taken by yeas and nays, as required under the provision of said rule; and on the roll call 123 members voted in the affirmative and 31 in the negative.

[See Yea and Nay No. 268 in Supplement.]

Therefore Rule 1A was suspended.

The pending amendment, as amended, then was adopted.

Mr. DeLeo of Winthrop then moved that the bill be amended in section 1, after line 24, by inserting the following 3 paragraphs:

"(1A) The council may contract with an independent health care organization to provide the council with technical assistance related to its duties including but not limited to, development of health care quality goals, cost reduction goals, performance measurement benchmarks, the design and implementation of health care quality interventions, the construction of the consume health information website as well as the preparation of reports including any reports as required.

The independent health care organization shall have a history of demonstrating the skill expertise necessary to: (i) collect, analyze and aggregate data related to cost and quality across the health care continuum; (ii) identify through data analysis quality improvement areas; (iii) work with Medicare, MassHealth, other payers' data and clinical performance. measures; (iv) collaborate in the design and implementation of quality improvement measures; (v) established and maintain security measures necessary to maintain confidentiality and preserve the integrity of the data; (vi) design and implement health care quality improvement interventions with health care service providers and (vii) identify and, when necessary, develop appropriate measures of cost and quality for inclusion on the website.

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To the extent possible, the organization shall collaborate with other organizations that develop, collect and publicly report heath cost and quality measures."; in section 7, in line 5, by striking out the year "1998" and inserting in place thereof the year "2005"; in section 8, in lines 29 to 58, by striking out the definition of "Health care coverage" contained therein, in line 99, and also in lines 109 and 110, by striking out the words "health care coverage" and inserting in place thereof, in each instance, the words "creditable coverage", and by adding at the end of said section the following:

Section 5. Notwithstanding anything in this act to the contrary, nothing in this act shall interfere with a person's right to receive chiropractic benefits in accordance with the provisions of Section 108D of Chapter 175."; by striking out section 9 (as printed and inserting in place thereof the following section:

"SECTION 9. Subsection (2) of section 9A of chapter 118E of the General Laws, in the 2004 Official Edition, is hereby amended by striking out clause (c) and inserting in place thereof the following clause:—

(c) Children and adolescents, from birth to 18 years, inclusive, whose financial eligibility as determined by the division exceeds 133 per cent but is not more than 300 per cent of the federal poverty level, including such children and adolescents made eligible for medical benefits under this chapter by Title XXI of the Social Security Act."; in section 33, in line 5, by striking out the word "may" and inserting in place thereof the word "must"; in section 38, in lines 7 to 10, inclusive, by striking out the words "the employer shall offer the same health insurance premium contribution percentage amount for each specific or general blanket policy of insurance for all employees" and inserting in place thereof the words "the employer shall not make a smaller health insurance premium contribution percentage amount to an employee than the employer makes to any other employee who receives an equal or greater total hourly or annual salary for each specific or general blanket policy of insurance for all employees. Notwithstanding the forgoing, a carrier may enter into a group medical service agreement with an employer that established separate contribution percentages for employees covered by collective bargaining agreements"; in section 40, in lines 7, 8 and 9, by striking out the words "the employer shall offer the same health insurance premium contribution percentage amount for each specific or general blanket policy of insurance for all employees" and inserting in place thereof the words "the employer shall not make a smaller health insurance premium contribution percentage amount to an employee than the employer makes to any other employee who receives an equal or greater total hourly or annual salary for each specific or general blanket policy of insurance for all employees. Notwithstanding the forgoing, a health maintenance organization may enter into a group health maintenance contract with an employer that establishes separate contribution percentages for employees covered by collective bargaining agreements"; in section 42, in lines 8, 9 and 10, by striking out the following: "minimum deductible required in section 223 of the Internal Revenue Code and implementing regulations or guidelines" and inserting in place thereof the following: "the maximum annual contribution to a health savings account permitted under section 223 of of the Internal Revenue Code"; by inserting after section 42 (as printed) the following sections:

"SECTION 42A. Said chapter 176G is hereby further amended by inserting after section 16 the following section:—

Section 16A. The commissioner shall not disapprove a health maintenance contract offered as coverage for young adults as long as the health maintenance contract complies with the minimum standards established pursuant to section 10 of chapter 176J."; in section 62, in line 8, by striking out the date "January 1, 2006" and inserting in place thereof the date "July 1, 2006"; in section 63, in lines 6, 11 and 39, by striking out the date "January 1, 2006" and inserting in place thereof, in each instance, the date "July 1, 2006"; in section 64 by inserting after line 94 the following paragraph:

"(4) Notwithstanding any other provision in this section, a carrier may deny an eligible individual or an eligible small business with five or fewer eligible employees enrollment in a health benefit plan unless the eligible individual or eligible small business enrolls through an intermediary or the connector. If an eligible individual or an eligible small business with five or fewer eligible employees elects to enroll through an intermediary or the connector, a carrier may not deny that eligible individual or eligible small business enrollment. The carrier shall implement such requirements consistently, treating all similarly situated eligible individuals and eligible small businesses in a similar manner."; in section 70, in lines 29 to 44, inclusive, by striking out the following: "Premiums charged for coverage for young adults must satisfy the following requirements:

a. A carrier must determine premium rates for a coverage for young adults health plan based on the pooled experience of its entire small group and non-group business for all persons within the same rate basis type; provided, however that premiums may vary due to geographic area and benefit level.

b. A carrier may not vary premium rates for coverage for young adults based on age.

c. The carrier may establish a benefit level rate adjustment for coverage for young adults health plans, in accordance with the requirements of this statute.

d. The carrier may apply the area rate adjustment to coverage for young adults health plans, as otherwise permitted by this statute." and inserting in place thereof the following:

"Premium rates for young adult health plans shall be consistent with the requirements of section 3 of chapter 176J."; in section 77, after line 273, by inserting the following paragraph:

"(r) To define criteria for Commonwealth Care Health Insurance Program plans eligible for premium assistance payments.", in lines 290 to 306, inclusive, by striking out the 2 paragraphs contained therein and inserting in place thereof the following paragraph:

"(d) Plans receiving the connector seal of approval must meet all requirements of 'health benefit plan' as defined in chapter 176J; provided, however, that plans shall not be required to meet health care delivery network design in any other law. Any health benefit plan

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receiving the connector seal of approval may exclude any new mandated benefits coverage implemented after January 1, 2006.", and in lines 384 to 387, inclusive, by striking out the paragraph contained therein and inserting in place thereof the following paragraph:

"Section 11. (a) When an eligible individual or group is enrolled in the connector by a producer or intermediary licensed in the commonwealth, the individual or group shall pay the producer or intermediary a commission that shall be determined by the board. Costs of this transaction must be separate and apart from any charge associated with the premium."; and by adding at the end thereof the following section:

"SECTION 108. Chapter 118E of the General Laws, as appearing in the 2004 edition, is hereby amended by inserting the following new section 16D:—

16D. Notwithstanding a member's coverage types or enrollment in a Managed Care Organization, the division shall provide reimbursement to providers for all medically necessary non-emergency ambulance and wheelchair van trips provided to enrollees in the MassHealth Basic and MassHealth Essential plans. Reimbursement to such providers shall not exceed $300,000 in each fiscal year.

Medical necessity for non-emergency ambulance service shall be established by the completion of a Medical Necessity Form signed by a physician, physician's designee, physician assistance nurse midwife, dentist, nurse practitioner, managed care representative, or registered nurse. The transportation provider is responsible for the completeness of Medical Necessity Forms. The completed Medical Necessity Form must be kept by the transportation provider as a record for four years from the date of service.".

Pending the question on adoption of the amendments, Mr. Festa of Melrose moved that the amendments be amended by inserting after the 3 paragraphs proposed in section 1 the following: ", and in line 113, by inserting after the following: 'AFL-CIO' the words:- one member representing the American Cancer Society Massachusetts Division".

The further amendment was adopted.

After debate the amendments, as amended, then also were adopted.

Mr. DeLeo of Winthrop, Ms. Walrath of Stow and other members of the House then moved that the bill be amended in section 34 by striking the words "the employer shall offer the same health insurance premium contribution percentage amount for each specific or general blanket policy of insurance for all employees" and inserting in place thereof the following: "the employer shall not make a smaller health insurance premium contribution percentage amount to an employee than the employer makes to any other employee who receives an equal or greater total hourly or annual salary for each specific or general blanket policy of insurance for all employees. Notwithstanding the forgoing, a carrier may enter into a general or blanket policy of insurance with an employer that establishes separate contribution percentages for employees covered by collective bargaining agreements";

In section 36 by striking out the words "the employer shall offer the same health insurance premium contribution percentage amount for each specific or general blanket policy of insurance for all employees" and inserting in place thereof the following: "the employer shall not make a smaller health insurance premium contribution percentage amount to an employee than the employer makes to any other employee who receives an equal or greater total hourly or annual salary for each specific or general blanket policy of insurance for all employees. Notwithstanding the forgoing, a carrier may enter into a contract to sell a group non-profit hospital service contract with an employer that establishes separate contribution percentages for employees covered by collective bargaining agreements";

By striking out section 89 and inserting in place thereof the following section:

"SECTION 89. Notwithstanding the provisions of any general or special law to the contrary, the Executive Office of Health and Human Services shall not make any change to the financing, operation or regulation of, or contracts pertaining to, the provision of behavioral health services to persons receiving services administered, provided, paid for or procured by the Executive Office of Health and Human Services, Office of Medicaid, including, but not limited to services under Title XIX of the Social Security Act, and Title XXI S-CHIP, and any MassHealth expansion population served under Section 1115 waivers, so-called, nor shall it recommend or procure, by request for response or otherwise, any such changes, nor shall it seek approval from the Centers for Medicare and Medicaid Services for any such changes, until is has submitted a report outlining the proposed changes, together with reasons therefore and an explanation of the benefits of such changes, to the Joint Committees on Mental Health and Substance Abuse and Health Care Financing, and in no case prior to February 15, 2006.

In section 1, in line 26, by striking out the words "a representative of the mental health field" and inserting in place thereof the words "a mental health professional"; and

By striking out section 77 and inserting in place thereof the following section:

"SECTION 77. The General Laws are hereby amended by inserting after chapter 176P the following chapter:—

CHAPTER 176Q.
COMMONWEALTH HEALTH INSURANCE CONNECTOR.

Section 1. As used in this chapter the following words shall, unless the context clearly requires otherwise, have the following meanings:—

'Board', board of the commonwealth health insurance connector.

'Business entity', a corporation, association, partnership, limited liability company, limited liability partnership or other legal entity.

'Carrier', an insurer licensed or otherwise authorized to transact accident and health insurance under chapter 175; a nonprofit hospital service corporation organized under chapter 176A; a nonprofit medical service corporation organized under chapter 176B; a health maintenance organization organized under chapter 176G.

'Commissioner', the commissioner of insurance.

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'Commonwealth care health insurance program enrollees', individuals and their dependents eligible to enroll in the commonwealth care health insurance program.

'Commonwealth care health insurance program', program administered pursuant to chapter 118H.

'Connector', the independent public entity known as the commonwealth health insurance connector.

'Connector product', a health benefits plan bearing the connector seal of approval.

'Connector seal of approval', board approval indicating that the health benefit plan meets certain standards regarding value and quality.

'Division', the division of health care finance and policy.

'Eligible individual', an individual who is a resident of the commonwealth; provided, however, that the individual is not offered subsidized health insurance by an employer with more than 50 employees.

'Eligible small group,' any sole proprietorship, labor union, educational, professional, civic, trade, church, not-for-profit or social organization or firm, corporation, partnership or association actively engaged in business that on at least 50 per cent of its working days during the preceding year employed at least one but not more than 50 employees.

'Executive director', the executive director of the group insurance commission.

'Health benefit plan,' any individual, general, blanket or group policy of health, accident and sickness insurance issued by an insurer licensed under chapter 175; a group hospital service plan issued by a nonprofit hospital service corporation under chapter 176A; a group medical service plan issued by a nonprofit medical service corporation under chapter 176B; a group health maintenance contract issued by a health maintenance organization under chapter 176G; a coverage for young adults health insurance plan under section 10 of chapter 176J. Health benefit plan shall not include accident only, credit only, limited scope vision or dental benefits if offered separately, hospital indemnity insurance policies if offered as independent, non-coordinated benefits which for the purposes of this chapter shall mean policies issued pursuant to chapter 175 which provide a benefit not to exceed $500 per day, as adjusted on an annual basis by the amount of increase in the average weekly wages in the commonwealth as defined in section 1 of chapter 152, to be paid to an insured or a dependent, including the spouse of an insured, on the basis of a hospitalization of the insured or a dependent, disability income insurance, coverage issued as a supplement to liability insurance, specified disease insurance that is purchased as a supplement and not as a substitute for a health plan and meets any requirements the commissioner by regulation may set, insurance arising out of a workers' compensation law or similar law, automobile medical payment insurance, insurance under which benefits are payable with or without regard to fault and which is statutorily required to be contained in a liability insurance policy or equivalent self insurance, long-term care if offered separately, coverage supplemental to the coverage provided under 10 U.S.C. 55 if offered as a separate insurance policy, or any policy subject to the provisions of chapter 176K or any similar policies issued on a group basis, Medicare Advantage plans or Medicare Prescription drug plans. A health plan issued, renewed or delivered within or without the commonwealth to an individual who is enrolled in a qualifying student health insurance program pursuant to section 18 of chapter 15A shall not be considered a health plan for the purposes of this chapter and shall be governed by the provisions of said chapter 15A and the regulations promulgated hereunder. The commissioner may by regulation define other health coverage as a health benefit plan for the purposes of this chapter.

'Mandated benefit', a health service or category of health service provider which a carrier is required by its licensing or other statute to include in its health benefit plan.

'Participating institution', eligible groups that purchase health benefit plans through the connector.

'Premium assistance payment', payment made to carriers by the connector.

'Rating factor', characteristics including, but not limited to, age, industry, rate basis type, geography, wellness program usage or tobacco usage.

Section 2. (a) There shall be established within the executive office of administration and finance, but not under its jurisdiction, an independent public entity, to be known as the commonwealth health insurance connector.

(b) The connector shall be governed by a board consisting of 13 members: the director of the office of Medicaid, ex-officio; the secretary for administration and finance, ex-officio; the commissioner of insurance, ex-officio; 10 additional members appointed by the governor. Of the members appointed by the governor, 1 shall be a member in good standing of the American Academy of Actuaries, 1 shall be an employee health benefits plan specialist, 1 shall be a representative of an organization providing legal assistance to low-income residents, 1 shall be a health economist, 1 shall be a representative of a health consumer organization, 1 shall represent the interests of small businesses, 1 shall be a representative of organized labor, 1 shall be a representative of a public health organization, 1 shall be a representative of an organization concerned with the health of racial and ethnic minorities, and 1 shall be a provider of health care to low-income families. No appointee may be an employee of any licensed carrier authorized to do business in the commonwealth. Upon the initial appointments, the governor shall designate 5 appointed members for a term of 3 years; 5 appointed members for a term of 4 years; and 3 appointed members for a term of 5 years. Thereafter, all appointments shall serve a term of 3 years, but a person appointed to fill a vacancy shall serve only for the unexpired term. An appointed member of the board shall be eligible for reappointment. The governor shall appoint the chairperson and the board shall annually elect 1 of its members to serve as vice-chairperson. Each ex-officio member of the board may appoint a designee pursuant to section 6A of chapter 30.

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(c) Seven members of the board shall constitute a quorum, and the affirmative vote of seven members shall be necessary and sufficient for any action taken by the board. No vacancy in the membership of the board shall impair the right of a quorum to exercise all the rights and duties of the connector. Members shall serve without pay, but shall be reimbursed for actual expenses necessarily incurred in the performance of their duties. The chairperson of the board shall report to the governor and to the general court no less than annually.

(d) Any action of the board may take effect immediately and need not be published or posted unless otherwise provided by law. Meetings of the board shall be subject to section 11A1/2 of chapter 30A; provided, however, that said section 11A1/2 shall not apply to any meeting of ex-officio members of the board in the exercise of their duties as officers of the commonwealth so long as no matters relating to the official business of the board are discussed and decided at the meeting. The board shall be subject to all other provisions of said chapter 30A, and records pertaining to its administration shall be subject to section 42 of chapter 30 and section 10 of chapter 66. All monies of the connector shall be considered to be public funds for purposes of chapter 12A. The operations of the board shall be subject to chapter 268A and chapter 268B.

(e) The executive director of the group insurance commission, established by section 3 of chapter 32A, shall supervise the administrative affairs and general management and operations of the commonwealth health insurance connector and shall also serve as secretary of the board, ex-officio. The executive director shall receive a salary commensurate with the duties of the office. The executive director may appoint other officers and employees of the connector necessary to its functioning. Sections 9A, 45, 46, and 46C of chapter 30, chapter 31 and chapter 150E shall not apply to the executive director or any other employees of the connector. The executive director shall, with the approval of the board: (i) plan, direct, coordinate and execute administrative functions in conformity with the policies and directives of the board; (ii) employ professional and clerical staff as necessary; (iii) report to the board on all operations under his control and supervision; (iv) prepare an annual budget and manage the administrative expenses of the connector; and (v) undertake any other activities necessary to implement the powers and duties set forth in this chapter.

(f) Within 120 days of the effective date of this act, the executive director shall submit a plan of operation to the board and any recommended amendments to this chapter or other General Laws to assure the fair, reasonable and equitable administration of the connector that is consistent with this chapter and any other applicable laws and regulations, which shall provide for the effective operation of the connector.

(g) As of October 1, 2006, the connector shall commence offering health benefit plans pursuant to section 5.

Section 3. The purpose of the board of shall be to govern the activities of the commonwealth health insurance connector. The goal of the board is to facilitate the purchase of health care insurance products at an affordable price by eligible individuals, eligible small groups and commonwealth care health insurance program enrollees. For these purposes, the board is authorized and empowered:—

(a) To develop a plan of operation for the connector; including, but not limited to, the following tasks:—

(1) establish procedures for operations of the connector;

(2) establish procedures for communications with the executive director;

(3) establish procedures for the selection of and the connector seal of approval certification for health benefit plans to be offered through the connector;

(4) establish procedures for the enrollment of eligible individuals, eligible small groups and commonwealth care health insurance program enrollees;

(5) establish a plan for operating a health insurance service center to provide eligible individuals, eligible small groups and commonwealth care insurance program enrollees, with information on the connector and manage connector enrollment;

(6) establish and manage a system of collecting all premium payments made by, or on behalf of, individuals obtaining health insurance coverage through the connector, including any premium payments made by enrollees, employees, unions or other organizations;

(7) establish and manage a system of remitting premium assistance payments to the carriers;

(8) establish a plan for publicizing the existence of the connector and the connector's eligibility requirements and enrollment procedures;

(9) develop criteria for determining that certain health benefit plans shall no longer be made available through the connector, and to develop a plan to decertify and remove the connector seal of approval from certain health benefit plans; and

(10) develop a standard application form for eligible individuals and eligible small groups seeking to purchase health insurance through the connector and commonwealth care health insurance program enrollees seeking a premium assistance payment, that shall include information necessary to determine an applicant's eligibility, previous health insurance coverage history and payment method.

(b) To determine each applicant's eligibility for purchasing insurance offered by the connector, including eligibility for premium assistance payments.

(c) To seek and receive any grant funding from the federal government, departments or agencies of the commonwealth, and private foundations.

(d) To contract with professional service firms as may be necessary in its judgment, and to fix their compensation.

(e) To contract with companies which provide third-party administrative and billing services for insurance products.

(f) To charge and equitably apportion among participating institutions its administrative costs and expenses incurred in the exercise of the powers and duties granted by this chapter.

(g) To adopt by-laws for the regulation of its affairs and the conduct of its business.

(h) To adopt an official seal and alter the same at pleasure.

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(i) To maintain an office at such place or places in the commonwealth as it may designate.

(j) To sue and be sued in its own name, plead and be impleaded.

(k) To establish lines of credit, and establish 1 or more cash and investment accounts to receive payments for services rendered, appropriations from the commonwealth and for all other business activity granted by this chapter except to the extent otherwise limited by any applicable provision of the Employee Retirement Income Security Act of 1974.

(l) To approve the use of its trademarks, brand names, seals, logos and similar instruments by participating carriers, employers or organizations.

(m) To create and deliver to the department of revenue a form that the department shall distribute to every person to whom it distributes information regarding personal income tax liability, including, without limitation, every person who filed a personal income tax return in the most recent calendar year that informs the recipient of the requirements to establish and maintain health care coverage, pursuant to section 2 of chapter 111M.

(n) To create for publication by the 30th of each September, the commonwealth care health insurance program consumer price schedule.

(o) To maintain membership lists from carriers in an electronic form that will provide such lists on a monthly basis.

(p) To create for publication by the 1st of each December, a premium schedule, which, accounting for maximum pricing in all rating factors with an exception for age, shall include the lowest premium on the market for which an individual would be eligible for creditable coverage, as defined in chapter 111M. Said schedule shall publish premiums allowing variance for age and rate basis type. The premium schedule shall be delivered to the department of revenue for use in establishing compliance with section 2 of said chapter 111M.

(q) To review annually the publication of the income levels for the federal poverty guidelines and devise a schedule of a percentage of income for each 50 per cent increment of the federal poverty level at which an individual could be expected to contribute said percentage of income towards the purchase of health insurance coverage. Affordable contribution amounts shall consider out-of-pocket costs paid by enrollees, including, but not limited to, deductibles, coinsurance, copayments, and premiums. The board shall consider contribution schedules, such as those set for government benefits programs. The recommended schedule shall only be approved following a public notice and hearing. The schedule shall be established annually on December 1, beginning on December 1, 2006. Prior to publication, the schedule shall be reported to the house and senate committee on ways and means and the joint committee on health care financing.

Section 4. (a) The connector may only offer health benefit plans to eligible individuals and eligible small groups.

(b) The participation of an eligible individual or an eligible small group in the connector shall cease if coverage is cancelled pursuant to section 4 of chapter 176J.

Section 5. (a) Only health insurance plans that have been authorized by the commissioner and underwritten by a carrier may be offered through the connector.

(b) Each health plan offered through the connector shall contain a detailed description of benefits offered, including maximums, limitations, exclusions and other benefit limits.

(c) No health plan shall be offered through the connector that excludes an individual from coverage because of race, color, religion, national origin, sex, sexual orientation, marital status, health status, personal appearance, political affiliation, source of income, or age.

(d) Plans receiving the connector seal of approval shall meet all requirements of health benefit plans, as defined in section 1 of chapter 176J; provided, however, that plans shall not be required to meet health care delivery network design in any other law. Any health benefit plan receiving the connector seal of approval may exclude any new mandated benefit coverage implemented after January 1, 2006.

Section 6. Eligible small groups seeking to be a participating institution shall, as a condition of participation in the connector, enter in a binding agreement with the connector which, at a minimum, shall stipulate the following:—

(a) that the employer agrees that, for the term of agreement, the employer will not offer to eligible individuals to participate in the connector any separate or competing group health plan offering the same, or substantially the same, benefits provided through the connector;

(b) that the employer reserves the right to determine, subject to applicable law, the criteria for eligibility, enrollment and participation in the connector and the amounts of the employer contributions, if any, to the such health plan, provided that, for the term of the agreement with the connector, the employer agrees not to change or amend any such criteria or contribution amounts at anytime other than during a period designated by the connector for participating employer health plans;

(c) that the employers will participate in a payroll deduction program to facilitate the payment of health benefit plan premium payments by employees to benefit from deductibility of gross income under 26 U.S.C. 104, 105, 106 and 125; and

(d) that the employer agrees to make available, in a timely manner, for review by the executive director, any of the employer's documents, records or information that the connector reasonably determines is necessary for the executive director to:—

(1) verify that the employer is in compliance with applicable federal and commonwealth laws relating to group health insurance plans, particularly those provisions of such laws relating to non-discrimination in coverage; and

(2) verify the eligibility, under the terms of the health plan, of those individuals enrolled in the employer's participating health plan.

Section 7. (a) The connector shall administer the commonwealth care health insurance program, established by chapter 118H, and remit premium assistance payments beginning on October 1, 2006 to those carriers providing health plans to commonwealth care health insurance program enrollees.

(b) Funds from the commonwealth care health insurance program shall be subject to appropriation from the Commonwealth Care Fund, established by section 2000 of chapter 29. If the executive director determines that amounts in the fund are insufficient to meet the projected costs of enrolling new eligible individuals, the executive director shall impose a cap on enrollment in the program.

Section 8. (a) The board shall enter into interagency agreements with the department of revenue to verify income data for participants in the commonwealth care health insurance program. Such written agreements shall include provisions permitting the connector to provide a list of individuals participating in or applying for the commonwealth care health insurance program, including any applicable members of the households of such individuals, which would be counted in determining eligibility, and to furnish relevant information including, but not limited to, name, social security number, if available, and other data required to assure positive identification. Such written agreements shall include provisions permitting the department of revenue to examine the data available under the wage reporting system, established by section 3 of chapter 62E. The department of revenue is hereby authorized to furnish the connector with information on the cases of persons so identified, including, but not limited to, name, social security number and other data to ensure positive identification, name and identification number of employer, and amount of wages received and gross income from all sources.

Section 9. The commonwealth, through the group insurance commission, shall enter into an agreement with the board whereby employees and contractors of the commonwealth who are ineligible for group insurance commission enrollment may elect to purchase a health benefit plan through the connector. The group insurance commission will develop a protocol for making pro-rated contributions to the chosen plan on behalf of the commonwealth.

Section 10. The connector seal of approval shall be assigned to health benefit plans that the board determines (1) meet the requirements of paragraph (d) of section 5; (2) provide good value to consumer; (3) offer high quality; and (4) are offered through the connector.

Section 11. (a) When an eligible individual or eligible small group is enrolled in the connector by a producer or intermediary licensed in the commonwealth, the individual or small group shall pay the producer or intermediary a commission that shall be determined by the board. Costs of this transaction must be separate and apart from any charge associated with the premium.

(b) Any labor union, educational, professional, civic, trade, church, not-for-profit or social organization may enroll its individual eligible members, or the individual members of its member organizations, in health benefit plans offered through the connector, and shall receive a payment amount determined by the board from each health benefit plan for persons who are enrolled unless the payment is prohibited under any applicable provision of the Employee Retirement Income Security Act of 1974.

(c) Notwithstanding any general law to the contrary, membership organizations that enroll eligible individuals or groups in health benefit plans offered through the connector do not have to be licensed as an insurance producer unless such an arrangement is prohibited under any applicable provision of the Employee Retirement Income Security Act of 1974.

Section 12. (a) The connector shall be authorized to apply a surcharge to all health benefit plans and shall be used only to pay for administrative and operational expenses of the connector; provided that such a surcharge shall be applied uniformly to all health benefit plans offered through the connector. These surcharges shall not be used to pay any premium assistance payments pursuant to the commonwealth care health insurance program.

(b) Each carrier participating in the connector shall be required to furnish such reasonable reports as the board determines necessary to enable the executive director to carry out his duties under this chapter.

(c) The board may withdraw a health benefit plan from the connector only after notice to the carrier.

Section 13. (a) All expenses incurred in carrying out this chapter shall be payable solely from funds provided under the authority of this chapter and no liability or obligations shall be incurred by the connector hereunder beyond the extent to which monies shall have been provided under this chapter.

(b) The connector shall be liable on all claims made as a result of the activities, whether ministerial or discretionary, of any member, officer, or employee of the connector acting as such, except for willful dishonesty or intentional violation of the law, in the same manner and to the same extent as a private person under like circumstances; provided, however, that the connector shall not be liable to levy or execution on any real or personal property to satisfy judgment, for interest prior to judgment, for punitive damages or for any amount in excess of $100,000.

(c) No person shall be liable to the commonwealth, to the connector or to any other person as a result of his activities, whether ministerial or discretionary, as a member, officer or employee of the connector except for willful dishonesty or intentional violation of the law; provided, however, that such person shall provide reasonable cooperation to the connector in the defense of any claim. Failure of such person to provide reasonable cooperation shall cause him to be jointly liable with the connector, to the extent that such failure prejudiced the defense of the action.

(d) The connector may indemnify or reimburse any person, or his personal representative, for losses or expenses, including legal fees and costs, arising from any claim, action, proceeding, award, compromise, settlement or judgment resulting from such person's activities, whether ministerial or discretionary, as a member, officer or employee of the connector; provided that the defense of settlement thereof shall have been made by counsel approved by the connector. The connector may procure insurance for itself and for its members, officers and employees against liabilities, losses and expenses which may be incurred by virtue of this section or otherwise.

(e) No civil action hereunder shall be brought more than 3 years after the date upon which the cause thereof accrued.

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(f) Upon dissolution, liquidation or other termination of the connector, all rights and properties of the connector shall pass to and be vested in the commonwealth, subject to the rights of lien holders and other creditors. In addition, any net earnings of the connector, beyond that necessary for retirement of any indebtedness or to implement the public purpose or purposes or program of the commonwealth, shall not inure to the benefit of any person other than the commonwealth.

Section 14. The connector shall keep an accurate account of all its activities and of all its receipts and expenditures and shall annually make a report thereof as of the end of its fiscal year to its board, to the governor, to the general court, and to the state auditor; provided that such reports shall be in a form prescribed by the board, with the written approval of the auditor. The board or the auditor may investigate the affairs of the connector, may severally examine the properties and records of the connector, and may prescribe methods of accounting and the rendering of periodical reports in relation to projects undertaken by the connector. The connector shall be subject to biennial audit by the state auditor.

Section 15. No later than 1 year after the connector begins operation and every year thereafter, the connector shall conduct a study of the connector and the persons enrolled in the connector and shall submit a written report to the governor, the president of the senate, the speaker of the house of representatives, the joint committee on health care financing, and the house and senate committees on ways and means on the status and activities of the connector based on data collected in the study. The report shall also be available to the general public upon request. The study shall review:—

(1) the operation and administration of the connector, including surveys and reports of health benefit plans available to eligible individuals and on the experience of the plans. The experience on the plans shall include data on enrollees in the connector and enrollees purchasing health benefit plans, as defined by chapter 176J, outside of the connector, the operation and administration of the commonwealth care health insurance program, expenses, claims statistics, complaints data, how the connector met its goals, and other information deemed pertinent by the connector; and

(2) any significant observations regarding utilization and adoption of the connector

Section 16. The board may promulgate such rules and regulations as necessary to implement this chapter.

Section 17. The chapter, being necessary for the welfare of the commonwealth and its inhabitants, shall be liberally construed to affect the purposes hereof.".

After remarks on the question on adoption of the amendments, Mr. Carron of Southbridge moved that the amendments be amended by adding the following: "; and in section 14 by striking out the proposed clause (15) in lines 4, 5 and 6, and inserting in place thereof the following:—

(15) The office of Medicaid shall report to the director of the group insurance commission monthly a listing of all individuals for whom creditable coverage is provided as of the first day of the month.

(16) A managed care organization, as defined in 130 CMR 501.001, which maintains National Committee for Quality Assurance (NCQA) accreditation for its Medicaid product line, shall be deemed compliant by the office f Medicaid for all standards within the categories for which the Managed Care Organization (MCO) has been surveyed and determined to meet all standards. The Division shall impose no further oversight to meet MassHealth programmatic, operational, and oversight requirements, and the division shall accept the accreditation as meeting all standards. Accredited MCO's will be required to provide quarterly, semi-annual and annual reporting as required per contract.".

The further amendment was rejected.

Mr. Jones of North Reading and other members of the House then moved that the amendments be amended by adding at the end thereof the following: "; and by adding at the end thereof the following section:—

SECTION 109. Chapter 111 of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by striking out section 25E and inserting in place thereof the following section:

Section 25I. The commissioner shall promulgate regulations requiring that either a resident or consultant pharmacist in a health care facility shall return to the pharmacy from which is was purchased all unused medication; provided that such medication is sealed in unopened, individually packaged units and within the recommended period of shelf life, and provided that such medication is not a schedule I or II controlled substance as defined in chapter 94C. Such pharmacies shall accept all such unused medications regardless of whether such medications are included on any list of unit-dose drugs issued by the department or the division of medical assistance. Any rules and regulations issued by the commissioner shall permit the pharmacy to which such medication is returned to restock and redistribute such medication, and shall be required to reimburse or credit the purchaser for any such returned medication.".

Further amendment rejected, yea and nay No. 269.

After remarks on the question on adoption of the further amendment, the sense of the House was taken by yeas and nays, at the request of Mr. Peterson of Grafton; and on the roll call 63 members voted in the affirmative and 91 in the negative.

[See Yea and Nay No. 269 in Supplement.]

Therefore the further amendment was rejected.

Mr. Hynes of Marshfield then moved that this vote be reconsidered; and (the Speaker being in the Chair) the motion to reconsider prevailed.

On the recurring question on adoption of the further amendment, Representatives Walrath of Stow and Jones of North Reading moved, there being no objection, that the further amendment be amended by striking out the text contained therein and inserting in place thereof the following: "; and by adding at the end thereof the following section:—

SECTION 109. Chapter 111 of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by striking out section 25E and inserting in place thereof the following section:

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Section 25I. The commissioner shall promulgate regulations requiring that either a resident or consultant pharmacist in a health care facility shall return to the pharmacy from which is was purchased all unused medication; provided that such medication is sealed in unopened, individually packaged units and within the recommended period of shelf life, and provided that such medication is not a schedule I or II controlled substance as defined in chapter 94C. Such pharmacies shall accept all such unused medications regardless of whether such medications are included on any list of unit-dose drugs issued by the department or the division of medical assistance. Any rules and regulations issued by the commissioner shall permit the pharmacy to which such medication is returned to restock and redistribute such medication, and shall be required to reimburse or credit the purchaser for any such returned medication. Provided, that no regulations shall be promulgated until the department studies and certifies the safety, feasibility and cost savings associated with the return of such unused medications.".

Still further amendment adopted, yea and nay No. 270.

On the question on adoption of the still further amendment, the sense of the House was taken by yeas and nays, at the request of Mr. Hynes of Marshfield; and on the roll call 154 members voted in the affirmative and 0 in the negative.

[See Yea and Nay No. 270 in Supplement.]

Therefore the still further amendment was adopted, thus precluding a vote on the recurring further amendment.

Mr. Petersen of Marblehead then moved that the amendment be amended by adding at the end thereof the following: "; and by adding at the end thereof the following section:—

SECTION 110. There shall be established a special commission made up of 6 members to be appointed by the Speaker of the House, 6 members to be appointed by the Senate President, to study the cost of health insurance premiums to consumers in the Commonwealth in the year 2008. Such study will study trends as compared to years prior to passage of the comprehensive health legislation as passed in 2005.".

The further amendment was adopted.

The amendments, as amended, then also were adopted.

Mr. DeLeo of Winthrop, Ms. Walrath of Stow and others moved that the bill be amended in section 1, by inserting, in line 36, after the word "quality", the words ", and that recognizes and makes adjustments for socioeconomic demographic data".

In section 19, by inserting, in line 12, after the word "Guidelines", the words ", and that recognizes and makes adjustments for socioeconomic demographic data".

By striking section 94 and inserting in place thereof the following new section:

"SECTION 94. Notwithstanding the provisions of any general or special law to the contrary, 440 million dollars shall be transferred from the Commonwealth Care Fund to the Health Safety Net Trust Fund in fiscal year 2007, provided further that of this amount 70 million dollars shall be used for transitional reimbursement payments to the 2 disproportionate share hospitals, as defined by section 1 of chapter 118G with the highest relative volume of free care costs for hospital year 2007 as determined by the health safety net office, and that this reimbursement shall be separate from any other reimbursements authorized by the health safety net office, and provided that 30 million dollars shall be used for transitional reimbursement payments to the 12 hospitals disproportionate share hospitals, as defined by section 1 of chapter 118G, with the next highest volume of free care costs in that year, and that these reimbursements shall be separate from any other reimbursements authorized by the health safety net office.";

In section 95, by inserting, in line 4, after the words "June 30, 2006", the words ", provided that all payments earmarked in said chapter 241 have been made";

In section 22 by inserting after the word "centers", in line 102, the words "and community mental health centers"; and further amended by inserting after the word "between" in line 103, the words "these centers and"; and by striking all after the word "hospitals" and inserting a period at the end of the sentence; by adding the following new section:

"SECTION __. The division of insurance shall require health insurers to submit information to the division to allow the division to determine if health insurance premiums are being appropriately adjusted to take in account the savings due to the repeal by this act of the surcharge imposed by section 18A of chapter 118G of the General Laws. If the division deems necessary, the division shall perform a market conduct study to examine premiums charged by health insurers after July 1, 2006. Said study shall determine if insurance premiums were appropriately adjusted to take in account the savings due to the repeal by this act of the surcharge imposed by section 18A of chapter 118G of the General Laws. The division shall order any health insurer determined not to have adjusted premiums to take such savings into account to adjust such premiums pursuant to an order of the commissioner of insurance.";

In section 8, by inserting at the end of chapter 111M of the General Laws, as appearing in said section 8, the following section:

"Section 4. No person may willfully misuse any personal information for personal gain or any other purposes inconsistent with the purposes of this chapter. Any aggrieved person may institute a civil action in superior court for damages or to restrain any further information sharing by the accused parties. If it is found in any such action that there has occurred a willful violation, the violator shall not be entitled to claim any privilege absolute or qualified, and he shall in addition to any liability for such actual damages as may be shown, be liable for exemplary damages of not less than one hundred and not more than one thousand dollars for each violation, together with costs and reasonable attorneys' fees and disbursements incurred by the person bringing the action.";

In section 1 by adding in Section 16H, Section 2 (7) after the words "American Association of Retired Persons," the following: "one member representing the Massachusetts Coalition of Taft Hartley Trust Funds";

In section 86 by adding in line 26 the words "MassHealth Technical Forum" and by adding in line 25 the words "MassHealth Technical Forum".

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In section 1, subsection 2, paragraph (7) by inserting in line 10 after "Health Association," the following: "one member representing the Massachusetts Community Health Worker Network,";

In section 2, subsection 3 by inserting in line 17 after "nurses" the following: "1 shall be the Executive Director of the Massachusetts Community Health Worker Network".;

In section 29, subsection 2, in line 52, by striking "and education that is designed to reach these populations" and inserting in place thereof the words "and education and retention of health care services and wellness programs that are designed to reach these populations and eliminate health care disparities.";

In section 22 by striking the new section 55 of 118E and inserting in place thereof the following section:—

"Section 55. As used in sections 54 to 57 the following words shall, unless the context clearly requires otherwise, have the following meanings:—

'Acute hospital', the teaching hospital of the University of Massachusetts Medical School and any hospital licensed under section fifty-one of chapter one hundred and eleven and which contains a majority of medical-surgical, pediatric, obstetric, and maternity beds, as defined by the department of public health.

'Allowable reimbursement', payment to acute hospitals and community health centers for health services provided to uninsured and underinsured patients of the commonwealth, provided that such payments shall be made in accordance with regulations promulgated by the office.

'Community health center', health center operating in conformance with the requirements of Section 330 of United States Public Law 95-626 and shall include all community health centers which file cost reports as requested by the division.

'Director', the director of the health safety net office.

'Emergency bad debt', an account receivable based on services provided by an acute hospital to an uninsured patient or other individual who has an emergency medical condition that is regarded as uncollectible, following reasonable collection efforts consistent with regulations of the office.

'Emergency medical condition', a medical condition, whether physical or mental, manifesting itself by symptoms of sufficient severity, including severe pain, that the absence of prompt medical attention could reasonably be expected by a prudent layperson who possesses an average knowledge of health and medicine, to result in placing the health of the person or another person in serious jeopardy, serious impairment to body function, or serious dysfunction of any body organ or part, or, with respect to a pregnant woman, as further defined in section 1867(e)(1)(B) of the Social Security Act, 42 U.S.C. 1295dd(e)(1)(B).

'Fund', the health safety net fund, established by section 57.

'Fund fiscal year', the twelve month period starting in October and ending in September.

'Health services', medically necessary inpatient and outpatient services as mandated under Title XIX of the Federal Social Security Act. Health services shall not include (1) non-medical services, such as social, educational and vocational services; (2) cosmetic surgery; (3) canceled or missed appointments; (4) telephone conversations and consultations; (5) court testimony; (6) research or the provision of experimental or unproven procedures including, but not limited to, treatment related to sex-reassignment surgery, and pre-surgery hormone therapy; and (7) the provision of whole blood; and provided, however, that administrative and processing costs associated with the provision of blood and its derivatives shall be payable.

'Office', the health safety net office, as established by section 56.

'Private sector charges', gross patient service revenue attributable to all patients less gross patient service revenue attributable to Titles XVIII and XIX, other public aided patients, reimbursable health services, and bad debt.

'Reimbursable health services', health services provided to uninsured and underinsured patients who are determined to be financially unable to pay for their care, in whole or part, pursuant to applicable regulations of the office, provided that non-emergency and urgent services shall be provided at a community health center unless no community or hospital licensed health center is located within five miles of a hospital campus, as determined by the office. "Resident", a person living in the commonwealth, as defined by the office by regulation; provided, however, that such regulation shall not define as a resident a person who moved into the commonwealth for the sole purpose of securing health insurance under this chapter. Confinement of a person in a nursing home, hospital or other medical institution shall not in and of itself, suffice to qualify such person as a resident.

'Underinsured patient', a patient who is a resident of the commonwealth and whose health insurance plan or self-insurance health plan does not pay for health services that are eligible for reimbursement under this section, or who is enrolled in a publicly funded health care program that does not provide coverage for services eligible for reimbursement from the health safety net trust fund, provided that such patient meets income eligibility standards set by the office.

'Uninsured patient', a patient who is a resident of the commonwealth and who is not covered by a health insurance plan, a self-insurance health plan, and is not eligible for a medical assistance program."; and

In said section 22 by striking the new section 59 and inserting in place thereof the following section:—

"Section 59. (a) Reimbursements from the Fund to hospitals and community health centers for health services provided to uninsured individuals shall be made in the following manner, and shall be subject to rules and regulations promulgated by the office.

(1) Reimbursements made to acute hospitals shall be based on actual claims for health services provided to uninsured patients that are submitted to the office, and shall be made only after determination that the claim is eligible for reimbursement in accordance with this chapter and any additional regulations promulgated by the office, provided that reimbursements for non-urgent and non-emergency health services provided to residents of other states and for-

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eign countries shall be prohibited, and provided further that the office shall make payment to acute hospitals using fee-for-service rates calculated as provided in subparagraph (2) below.

(2) The office shall reimburse acute hospitals for health services provided to uninsured individuals based on the payment systems in effect for acute hospitals used by the United States Department of Health and Human Services Centers for Medicare & Medicaid Services to administer the Medicare Program under Title XVIII of the Social Security Act, including all of Medicare's adjustments for direct and indirect graduate medical education, disproportionate share, outliers, organ acquisition, bad debt, new technology and capital and the full amount of the annual increase in the Medicare hospital market basket index. The division shall modify such payment systems only to account for: the differences between the program administered by the office and the Title XVIII Medicare program, including the services and benefits covered, and, for purposes of calculating the payment rates for covered hospital services, the office shall use a grouper and DRG relative weights that have been determined by the office, in consultation with the division of health care finance and policy and the Massachusetts Hospital Association, to reimburse acute hospitals at rates no less than the rates they are reimbursed by Medicare; the extent and duration of such coverage; the populations served; and the assurance that providers will be held harmless at their current reimbursement levels. Following implementation of the provisions of this section, the office shall ensure that the rates paid pursuant to this section for health services provided to uninsured individuals shall not thereafter be less than rates of payment for comparable services under the Medicare program, taking into account the adjustments required by this section.

(3) For the purposes of paying community health centers for health services provided to uninsured individuals under this section, the office shall pay community health centers a base rate that shall be no less than the then current Medicare Federally Qualified Health Center rate as required under 42 USC section 1395l(a)(3), which the office shall adjust for wage differences, and to which the office shall add payments for additional services not included in the base rate, including, but not limited to, EPSDT services, 340B pharmacy, urgent care, and emergency room diversion services.

(4) Reimbursements to acute hospitals and community health centers for bad debt shall be made upon submission of evidence, in a form to be determined by the office, that reasonable efforts to collect the debt have been made.

(b) The office shall, in consultation with the office of Medicaid, develop and implement procedures to verify the eligibility of individuals for whom health services are billed to the fund and to ensure that other coverage options are utilized fully before services are billed to the fund. The office shall review all claims billed to the fund to determine whether the patient is eligible for medical assistance pursuant to this chapter and whether any third party is financially responsible for the costs of care provided to the patient. In making such determinations, the office shall verify the insurance status of each individual for whom a claim is made using the insurance data base maintained by the group insurance commission. The office shall refuse to allow payments or shall disallow payments to acute hospitals and community health centers for free care provided to individuals if reimbursement is available from other public or private sources. The office shall require acute hospitals and community health centers to screen each applicant for reimbursed care for other source of coverage and for potential eligibility for government programs, and to document the results of such screening. If an acute hospital or community health center determines that an applicant is potentially eligible for Medicaid or for the commonwealth care program established pursuant to chapter 118H or another assistance program, the acute hospital or community health center shall assist the applicant in applying for benefits under such program. The office shall audit the accounts of acute hospitals and community health centers to determine compliance with this section and shall deny payments from the fund for any acute hospital or community health center that fails to document compliance with this section.

(c) By April 1 of the year preceding the start of the fund fiscal year, the office shall, after consultation with the Division of Health Care Finance and Policy, and using the best data available, provide an estimate of the projected total reimbursable health services provided by acute hospitals and community health centers and emergency bad debt costs, the total funding available, and any projected shortfall after adjusting for reimbursement payments to community health centers. In the event that a shortfall in revenue exists in any fund fiscal year to cover projected costs for reimbursement of health services, the office shall allocate said shortfall in a manner that reflects each hospital's proportional requirement for reimbursements from the fund, in accordance with regulations promulgated by the office.

(d) The division shall enter into interagency agreements with the department of revenue to verify income data for patients who receive reimbursed health care services and to recover payments made by the fund for services provided to individuals who are ineligible for reimbursed health services or on whose behalf the fund has paid for emergency bad debt. The division shall promulgate regulations requiring acute hospitals to submit data that will enable the department of revenue to pursue recoveries from individuals who are ineligible for reimbursed health services and on whose behalf the fund has made payments to acute hospitals for emergency bad debt. Any amounts recovered shall be deposited in the Health Safety Net Trust Fund.

(e) The office shall not at any time make payments from the fund for any period in excess of amounts that have been paid into or are available in the fund for such period; provided, however, that the office may temporarily prorate payments from the fund for cash flow purposes.";

In section 92, by striking the figures "58" and inserting in place thereof "57" and by striking the figures "160,000" and inserting in place thereof the figures "160,000,000";

In section 93, by striking the figures "58" and inserting in place thereof the figures "57".

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In section 96, by striking the figure "14M" in lines 4, 10, 14, 15, 17, and 28 and inserting in place thereof the figure "14N" and in line 25 by striking the letters "xx" and inserting in place thereof "56" and in line 30 by striking the figures "$280,000" and insert in place thereof "$280,000,000" and in line 31 by striking the figures "$320,000" and inserting in place thereof "$320,000,000";

In section 103 by striking after the figures "30" the word "and 93" and inserting in place thereof "96, and 98";

By striking section of the proposed new chapter 118H and inserting in place thereof the following new section:—

"Section 2. For the purpose of reducing uninsurance in the commonwealth, there shall be a Commonwealth Care Health Insurance program (hereinafter 'the program') within the commonwealth health insurance connector established in chapter 176Q. The program shall be administered by the board of the connector, in consultation with the directors of the office of Medicaid and the health safety net office. The board of the connector shall procure health insurance plans that are eligible for premium assistance payments in accordance with criteria set by the board, provided that such criteria shall include consideration of appropriate geographic distribution of providers, and shall determine a sliding-scale premium contribution payment schedule for enrollees, and shall establish procedures for determining eligibility and enrolling residents, in coordination with procedures used by the office of Medicaid. In order to maximize enrollment of low-income uninsured residents, the board of the connector shall develop a plan for outreach and education that is designed to reach these populations. In developing this plan, the board shall consult with the director of the office of Medicaid, representatives of any carrier eligible to receive premium subsidy payments under this chapter, representatives of hospitals that serve a high number of uninsured individuals, and representatives of low-income health care advocacy organizations.";

In section 77 by striking paragraph (b) of section seven of the new chapter 176Q and inserting in place thereof the following new paragraph:

"(b) Funds for the commonwealth care health insurance program shall be subject to appropriation by the legislature from the Commonwealth Care Fund established in section 2000 of chapter 29. In the event that the director determines that amounts in the fund are insufficient to meet the projected costs of enrolling new eligible individuals, the secretary shall impose a cap on enrollment in the program.";

In section 29, in section 4 of the new chapter 118H by striking in line 21 the word "secretary" and inserting in place thereof the word "director";

In section 29 by striking, in section four of the new chapter 118H the date "May 31" and inserting in place thereof the date "September 30";

In section 1 by inserting after the word "changes" in clause 8 of paragraph (d) of section 2 of the new section 16H the words "including recommendations concerning methodology for reimbursement payments made by the health safety net fund established in chapter 118E,"; in clause 8 striking the word "but" and inserting in place thereof the word "and", and by striking after the word "shall" the word "not";

By adding at the end thereof the following section:

"SECTION XX. Notwithstanding any general or special law to the contrary there shall be a demonstration program pertaining to health care coverage for fishermen administered by the Health Safety Net Office.";

By inserting in section 2 by inserting in line 22 after the word, "Executives," the words:— "shall be a nurse nominated by the Massachusetts Nurse Association";

In section 14 by striking out the proposed Clause (15) in lines 4, 5 and 6, and inserting in place thereof the following:

"(15) The office of Medicaid shall report to the director of the group insurance commission monthly a listing of all individuals for whom creditable coverage is provided as of the first day of the month.; and

(16) A managed care organization, as defined in 130 CMR 501.001, which maintains National Committee for Quality Assurance (NCQA) accreditation for its Medicaid product line, shall be deemed compliant by the office of Medicaid for all standards within the categories for which the Managed Care Organization (MCO) has been surveyed and determined to meet all standards. Accredited MCO's will be required to provide quarterly, semi-annual and annual reporting as required per contract.";

In section 77 in clause (b) of subsection 11 by striking the following words "and shall receive a payment amount determined by the board from each health plan for persons who are enrolled unless the payment is prohibited under any applicable provision of the Employment Retirement Income Security Act of 1974.";

By adding at the end thereof the following section:

"SECTION X. The executive office of health and human services shall investigate and study the results of pilot programs relative to computerized physician order entry systems and other e-health initiatives designed to save lives, reduce health care costs and increase economic competitiveness for the citizens of Massachusetts."; in section 77, in section 3 of said chapter 176Q, as so appearing, by striking out subsection (q) and inserting in place thereof the following subsection:

"(q) To review annually the publication of the income levels for the federal poverty guidelines and recommend a schedule of a percentage of income for each 50 per cent increment of the federal poverty level at which an individual could be expected to contribute said percentage of income towards the purchase of health insurance coverage. Affordable contribution amounts shall take into account all out of pocket costs paid by enrollees, including, but not limited to, deductibles, costs for medically necessary non-covered services, co-insurance, co-pays and premiums. The board shall consider contribution schedules, such as those set for government benefits programs. In determining the affordable percentage an individual is expected to contribute, the board may consider Massachusetts-specific costs of living, including but not limited to the costs of housing,

Health care, access.

energy and child care. The recommended schedule shall only be approved following a public notice and hearing."; and by adding the following section:

"SECTION ___. Notwithstanding any general or special law, rule or regulation to the contrary, in fiscal year 2007, $50,000,000 shall be made available from the General Fund to pay for an increase in the Medicaid rates paid to hospitals and physicians; provided that $10,000,000 of said amount shall be expended for an increase in such rates for community health centers. An additional $40,000,000 shall be made available in fiscal year 2007 from the Commonwealth Care Fund to pay for said increase in the Medicaid rates paid to hospitals and physicians.

Any increase in the Medicaid rate paid to hospitals, physicians or community health centers shall be contingent upon each such provider submitting a plan to the Executive Office of Health and Human Services that demonstrates how tangible progress will be made toward adherence to quality standards and achievement of performance benchmarks to the extent feasible consistent with the purposes of the section 13B of chapter 118E. Said report shall be filed with the Executive Office of Health and Human Services on or before November 1, 2006. Said executive office shall determine the feasibility of said plan not later than 6 months after submission of said plan. If such plan is determined to be insufficient, said executive office will, within 30 days following notice of said determination, report to the entities submitting said plan a list of recommendations to meet sufficiency. Said entities shall comply with said recommendations within 60 days within said notice. Following full implementation of the provisions of said section 13B, any subsequent adjustments to rates payable to acute hospitals for covered services under chapter 118E shall be conditioned on adherence to any quality standards and the achievement of any performance measurement benchmarks.".

The amendments were adopted.

Bill passed to be engrossed, yea and nay No. 271.

After remarks on the question on passing the bill, as amended, to be engrossed, the sense of the House was taken by yeas and nays, at the request of Mrs. Walrath of Stow; and on the roll call 131 members voted in the affirmative and 22 in the negative.

[See Yea and Nay No. 271 in Supplement.]

Therefore the bill, as amended, was passed to be engrossed. Mrs. Walrath then moved that this vote be reconsidered; and the motion to reconsider was negatived. The bill (House, No. 4479, printed as amended) then was sent to the Senate for concurrence.

Engrossed Bill — Land Taking.

Foxborough, land lease.

The engrossed Bill relative to property in the town of Foxborough (see House, No. 4332, amended) (which originated in the House), having been certified by the Clerk to be rightly and truly prepared for final passage, was put upon its final passage.

Bill enacted (land taking), yea and nay No. 272.

On the question on passing the bill to be enacted, the sense of the House was taken by yeas and nays (this being a bill providing for the taking of land or other easements used for conservation purposes, etc., as defined by Article XCVII of the Amendments to the Constitution); and on the roll call 152 members voted in the affirmative and 0 in the negative.

[See Yea and Nay No. 272 in Supplement.]

Therefore the bill was passed to be enacted; and it was signed by the Speaker and sent to the Senate.

Order.

On motion of Mr. Petrolati of Ludlow,—

Next sitting.

Ordered, That when the House adjourns today, it adjourn to meet on Monday next at eleven o'clock A.M.

Mr. Scaccia of Boston then moved that the House adjourn; and the motion prevailed. Accordingly, without further consideration of the remaining matters in the Orders of the Day, at five minutes before twelve o'clock midnight., the House adjourned, to meet on the House adjourned, Monday next at eleven o'clock A.M., in an Informal Session.